IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 1232 of 2004 (MS)

Mahant Ashok Prapann Sharma,
Chela Mahant Paras Ram,
Mahant and Gaddi Nashin,
Mandir Sri Bharat ji Maharaj,
Rishikesh, District Dehradun

..... **Revisionist**

Versus

1. **Civil Judge, Junior Division,**
   Rishikesh,
   District Dehradun

2. **Sri Virendra Kumar Agarwal,**
   S/o late Shri Hira Lal Agarwal,
   R/o Kshetra Road,
   Rishikesh, Distt. Dehradun.

3. **Sri Amar Dev Bhatt,**
   S/o now known

4. **Sri Shiv Kumar,**
   S/o not known
   R/o Chandreshwar Mahadev Road,
   Rishikesh, District Dehradun.

..... **Respondents**

Ms. Menka Tripathi, Advocate in brief of Mr. V.K. Bist,
learned Sr. counsel on behalf of the petitioner.
Mr. B.P. Nautiyal, Advocate / Mr. Hari Mohan Bhatia,
learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, moved under Article 227 of the Constitution of India, the plaintiff / petitioner has challenged the rejection of the amendment application moved before the trial court whereby he has sought to clarify the boundaries of the property in suit.

2) Heard learned counsel for the parties and perused the impugned order. The impugned application, paper No. 298-C has been moved in the S.C.C. Suit No. 06 of 1984. The record as such shows that the S.C.C. suit is pending for the last 20 years. From the perusal of the impugned order, it is also clear that boundaries of the property in suit are already mentioned in the plaint. However, learned counsel for the petitioner submits that during the pendency of the suit the adjoining land has changed hands, as such the amendment is required to be made in the plaint. Learned trial court in its impugned order has clarified that there is no need to amend the plaint and it may be explained even at the time of recording of evidence.

3) In the circumstances, in its revisional jurisdiction, this Court is not inclined to interfere with the impugned order (copy annexure No. 1 to this petition) as there appears no illegality in said order. The petition is dismissed with the observation that the plaintiff may explain change in respect of the boundaries, if any occurred during the pendency of suit at the time of evidence recorded in the suit. No order as to costs.

(Prafulla C. Pant, J.)

Dt. 21.12.2004
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